

# ARTICLE 97

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## ARTICLE 97

### TEXT OF ARTICLE 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

### INTRODUCTORY NOTE

1. The structure of this study follows as closely as possible that of the previous studies of this Article in the *Repertory* and *Supplements Nos. 1, 2 and 3*, except that new subheadings have been added where that has been necessary following the creation of new organs, while other subheadings have been deleted owing to the absence of material during this period.
2. The first part of this study deals with the staff of the Organization; certain categories of persons employed within the Secretariat whose conditions of appointment and service are governed by special rules are reviewed here while general questions relating to the appointment and conditions of service of the staff of the Secretariat and of its organization are dealt with under Article 101. This study also deals with the staff of certain special organs of the United Nations and the Joint Inspection Unit.
3. The staffing arrangements made for certain bodies that were established during the period under review are surveyed under Article 101<sup>1</sup>.
4. In referring to certain organs under this Article, the present study follows the practice established in previous studies. The fact that the staff of certain organs is mentioned under Article 97, rather than Article 101,

<sup>1</sup>See this *Supplement* under Article 101, paras. 52-57.

does not indicate a distinction as to the status of such staff. All the staff employed by the United Nations forms part of the Secretariat. In actual practice, however, a distinction is made between the "Secretariat proper" and staff specifically recruited for service in subsidiary organs with a temporary mandate or that are financed entirely or largely from voluntary contributions.

5. The second part of the study deals with the practice followed during the period under review regarding the appointment of the Secretary-General of the United Nations. The term of office of Secretary-General U Thant was due to expire on 3 November 1966 and he had expressed his desire not to offer his candidacy for a second term. However, on the recommendation of the Security Council, the General Assembly on 2 November 1966 extended his term of office until the end of the twenty-first session and subsequently, on 2 December 1966, when he expressed his willingness to accept a second term, appointed him for a second term, ending on 31 December 1971.

6. The role of the Secretary-General as the chief administrative officer of the Organization is not dealt with under this Article as the practice concerning the Secretary-General's functions is studied under Article 98.

### ANALYTICAL SUMMARY OF PRACTICE

#### A. The staff of the Organization

##### 1. STAFF OF THE SECRETARIAT

###### a. *In general*

7. An account of the amendments to the Staff Regulations of the United Nations adopted by the General Assembly during the period under review is given under Article 101.

###### b. *Staff governed by special staff rules*

(i) *Staff specifically engaged for conferences and other short-term service at Headquarters*

8. Staff Rules applicable to staff members specifically engaged for conference and other short-term service were issued in a revised edition in 1965, embodying all amendments made previously and omitting rule 309.6, Service Benefit, in consequence of General Assembly resolution 1929(XVIII).<sup>2</sup> With effect from 1 July 1966,

Appendix A to these rules was amended to show the revised salary rates.<sup>3</sup>

9. The staff rules applicable to staff members specifically engaged for conference and other short-term service were revised with effect from 1 July 1967,<sup>4</sup> 1 August 1968<sup>5</sup> and 1 August 1969<sup>6</sup> to show the revised schedule of salaries for such staff at Headquarters.

10. The Staff Rules applicable to staff members engaged through the United Nations Office at Geneva for conference and other short-term service were revised with effect from 1 July 1969 in order to bring them more in line with the corresponding rules for short-term staff engaged at Headquarters.<sup>7</sup>

<sup>2</sup>ST/SGB/Staff Rules/3/Rev.1.

<sup>3</sup>ST/SGB/Staff Rules/3/Rev.1/Amend.1.

<sup>4</sup>ST/SGB/Staff Rules/3/Rev.2.

<sup>5</sup>ST/SGB/Staff Rules/3/Rev.2/Amend.1.

<sup>6</sup>ST/SGB/Staff Rules/3/Rev.2/Amend.2.

<sup>7</sup>Geneva/01/105.

(ii) *Technical assistance project personnel*

11. The Staff Rules applicable to staff members specifically recruited for service with technical assistance projects were issued in a revised form with effect from 1 January 1966, embodying all previous amendments with respect to salary scales, salary increments, schedule of post adjustments, education grant, salaries and emoluments subject to staff assessment, repatriation grant, conditions governing payment of repatriation grant, medical care and compensation for death, injury or illness attributable to service, standards of accommodation and expenses while in transit by sea.<sup>8</sup>

12. Staff Rule 206.1 concerning participation in the pension fund, as amended by the substitution of a new text consequent upon the amendments to the Regulations of the United Nations Joint Staff Pension Fund approved by the General Assembly in its resolution 2191(XXI), was made effective from 1 January 1967. Effective from 1 January 1968, the Staff Rules were amended with respect to currency of salary payments, annual leave, special leave, initial and return travel of dependents, travel on home leave, termination, notice of termination, appeal and the Administrative Tribunal<sup>9</sup>.

(iii) *Dispatchers and guides in the Visitors' Service at Headquarters*

13. Appendix A of the Staff Rules applicable to staff members specifically engaged as dispatchers or guides in the Visitors Service was amended with effect from 1 October 1966, 1 July 1967,<sup>10</sup> 1 July 1968<sup>11</sup> and 1 January 1969,<sup>12</sup> to show revised schedules of salaries.

\*\*(iv) *Special internes*

## 2. STAFF OF CERTAIN ORGANS

\*\*a. *Military Staff Committee*\*\*b. *Staff of the United Nations Children's Fund*c. *International Narcotics Control Board*

14. Article 9, paragraph 2 of the Single Convention on Narcotic Drugs of 30 March 1961<sup>13</sup> provided that the Economic and Social Council should, in consultation with the International Narcotics Control Board established by the Convention, make all arrangements necessary to ensure the full technical independence of the Board in carrying out its functions. Pursuant thereto the Council, at its forty-second session, approved<sup>14</sup> administrative arrangements to be in force from 2 March 1968 to 1 March 1974 and providing, *inter alia*, as follows:

## "Secretariat

"1. The International Narcotics Control Board (hereinafter referred to as the Board) shall have a

secretariat, distinct from the Division on Narcotic Drugs.

"2. This secretariat shall be an integral part of the Secretariat of the United Nations. While under the full administrative control of the Secretary-General, it is bound to carry out the decisions of the Board.

"3. The members of the secretariat are appointed or assigned by the Secretary-General. The head of this secretariat shall be appointed or assigned in consultation with the Board.

"4. The Secretary-General will assign to the secretariat of the Board those persons who on 1 March 1968 belong to the staff of the joint secretariat of the Permanent Central Narcotics Board and Drug Supervisory Body."

\*\*d. *United Nations Panel of Field Observers*\*\*e. *The secretariat of the Technical Assistance Board*<sup>15</sup>f. *Staff of the Office of the United Nations High Commissioner for Refugees*

15. By its resolution 2294(XXII) the General Assembly decided to continue, for a further period of five years as from 1 January 1969, the Office of the United Nations High Commissioner for Refugees,<sup>16</sup> the special staff arrangements relating to which are described in the *Repertory*.<sup>17</sup>

\*\*g. *Staff of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*\*\*h. *Staff of the United Nations Korean Reconstruction Agency*\*\*i. *United Nations Emergency Force*\*\*j. *Staff of the United Nations Research Institute for Social Development*\*\*k. *Staff of the United Nations Special Fund*<sup>18</sup>\*\*1. *Staff of the United Nations Institute for Training and Research*\*\*m. *Staff of the United Nations Conference on Trade and Development*\*\*n. *Staff of the United Nations Development Programme*<sup>18</sup>o. *Staff of the United Nations Industrial Development Organization*

16. Section II of General Assembly resolution 2152(XXI), which established the United Nations Industrial Development Organization as "an auton-

<sup>8</sup>ST/SGB/Staff Rules/2/Rev.1.

<sup>9</sup>ST/SGB/Staff Rules/2/Rev.1/Amend.1.

<sup>10</sup>ST/SGB/Staff Rules/4/Rev.2.

<sup>11</sup>*Ibid.*

<sup>12</sup>ST/SGB/Staff Rules/4/Rev.2/Amend.1.

<sup>13</sup>United Nations, *Treaty Series*, vol. 520, p. 151.

<sup>14</sup>E S C resolution 1196(XLII), annex, para. 2.

<sup>15</sup>By G A resolution 2029(XX) the Expanded Programme of Technical Assistance and the Special Fund were combined into one programme to be known as the United Nations Development Programme (UNDP) with effect from 1 January 1966; consequently the organs of the former programmes, including the Technical Assistance Board, were abolished. See *Repertory, Supplement No. 3*, under Article 97, paras. 19 and 26.

<sup>16</sup>Established by G A resolution 319(IV).

<sup>17</sup>See *Repertory*, vol. 5, under Article 97, paras. 23-25.

<sup>18</sup>See foot-note 15 above.

mous organization within the United Nations", prescribed as follows:

*"Secretariat*

"17. The Organization shall have an adequate permanent and full-time secretariat, which will be appointed in accordance with Article 101 of the Charter of the United Nations, and which will avail itself of the other appropriate facilities of the Secretariat of the United Nations.

"18. The secretariat shall be headed by the Executive Director, who shall be appointed by the Secretary-General of the United Nations and whose appointment shall be confirmed by the General Assembly. He shall be appointed for four years and shall be eligible for reappointment."

17. In the related transitional arrangements, the General Assembly abolished the post of Commissioner for Industrial Development and authorised the Secretary-General, in consultation with the Executive Director, to transfer to UNIDO certain of the existing staff of the Centre for Industrial Development or those engaged in serving its operational activities, and to recruit such additional staff as would be required by the new organization.<sup>19</sup>

*p. Staff of the United Nations Capital Development Fund*

18. Article IX of General Assembly resolution 2186(XXI), which established the United Nations Capital Development Fund, provided:

*"Managing Director and Staff*

"1. The chief executive officer of the Capital Development Fund shall be the Managing Director, who shall exercise his functions under the general direction of the Executive Board. Subject to such general and specific directives as may be given by the Executive Board, the Managing Director shall have the over-all responsibility for the operations of the Capital Fund . . .

"2. The Managing Director shall be appointed by the Secretary-General of the United Nations. The appointment shall be subject to confirmation by the General Assembly.

"3. The Managing Director shall be appointed for a term of four years, the first term to begin on 1 January 1968.

"4. The Managing Director shall be assisted by the requisite number of staff members. He may also, as required, engage expert consultants. The selection of the officials and consultants shall be made in accordance with Article 101 of the Charter of the United Nations."

19. However, this special staff was not established for, by resolution 2321(XXII), the General Assembly invited the Secretary-General to request the Administrator of the United Nations Development Programme to administer the Capital Development Fund, on a provisional basis, as its Managing Director.

*q. Staff of the Joint Inspection Unit*

20. In its resolution 2360 A (XXII) the General Assembly recognized that the Joint Inspection Unit, the establishment of which the *Ad Hoc* Committee of Experts to Examine the Finances of the United Nations and the Specialized Agencies had recommended, should be brought into operation not later than 1 January 1968. Accordingly, the Unit was established with effect from that date, in accordance with the following proposals<sup>20</sup> of the *Ad Hoc* Committee:

"There should be established, in agreement with the various organizations of the United Nations family, a joint inspection unit. This unit should be administratively attached to the Secretary-General, as chief administrative officer of the United Nations and as Chairman of the Administrative Committee on Co-ordination.

"Composition and appointment. The inspection unit should consist of a very limited number of inspectors (not exceeding eight) chosen from among members of national supervision or inspection bodies, or from among persons of similar competence, on the basis of their special experience in national or international administrative and financial matters. The President of the General Assembly should draw up, with due regard to equitable geographical distribution, a corresponding list of countries, each of which should be requested to nominate a candidate or preferably a panel of candidates. The inspectors should be appointed initially for a period of four years by the Secretary-General of the United Nations, after consultation with the other members of the Administrative Committee on Co-ordination. The inspectors should not be appointed to any posts in the secretariats of the organizations of the United Nations family until at least three years have expired after the termination of their functions.

" . . .

"Administrative and financial provisions. The cost of the operation of the inspection unit should be shared by the organizations of the United Nations family, as agreed upon by them."

**\*\*3. STAFF OF THE REGISTRY OF THE INTERNATIONAL COURT OF JUSTICE**

**\*\*4. STAFF OF THE WORLD FOOD PROGRAMME**

**B. Appointment of the Secretary-General**

**1. METHOD OF APPOINTMENT**

21. The term of U Thant as Secretary-General being due to expire on 3 November 1966, an item entitled "Appointment of the Secretary-General of the United Nations" was placed on the agenda of the twenty-first session of the General Assembly. In a statement addressed to the members of the Security Council and to all Permanent Representatives to the United Nations on 1 September 1966,<sup>21</sup> U Thant announced that he had decided not to offer himself for a second term as Secretary-General.

<sup>19</sup>See G A resolution 2152(XXI), Section II, paras. 39 and 40.

<sup>20</sup>G A (XXI), Annexes, a.i. 80, A/6343, para. 67.

<sup>21</sup>G A (XXI), Annexes, a.i. 18, A/6400.

22. At his press conference on 19 September 1966, U Thant indicated that, taking into account the undesirability of changing Secretaries-General in the middle of a General Assembly session, he would consider serving to the end of the session then starting, if it should prove impossible to agree on another Secretary-General acceptable to all before the expiration of his own term some weeks later.<sup>22</sup> In view of this development the Security Council at its 1301st meeting (private), on 29 September, reached<sup>23</sup> the following consensus:

“... the members of the Council welcome the statement of the Secretary-General on 19 September 1966 that he is ready to consider serving until the end of the present twenty-first session of the General Assembly and that taking into account the great positive role played by the Secretary-General, U Thant, in the activities of the United Nations, the members of the Security Council further express their confidence in him and consider that if U Thant should express willingness to serve another term as the Secretary-General it would fully meet the desires of the members of this Council.”

23. At its 1311th meeting (private), on 28 October 1966, the Council adopted resolution 227(1966) confirming the above consensus and recommending to the General Assembly, “pending consideration by the Security Council of the question of the appointment of the Secretary-General, that it extend the appointment of U Thant as Secretary-General of the United Nations until the end of the twenty-first regular session of the General Assembly”. On 1 November 1966 the General Assembly by secret ballot unanimously adopted resolution 2147(XXI) by which the appointment of U Thant as Secretary-General was extended until the end of its twenty-first regular session.

24. On 2 December 1966 the Security Council at its 1329th meeting (private) unanimously appealed<sup>24</sup> to U Thant to continue to serve for another full term as Secretary-General. As he acceded to this appeal,<sup>25</sup> the Security Council at the same meeting recommended<sup>26</sup> to the General Assembly the appointment of U Thant “for another term of office”. The same day the Assembly by secret ballot reappointed<sup>27</sup> U Thant as Secretary-General for a term ending on 31 December 1971.

(a) *Recommendation of the Security Council*

(i) *Private meetings*

25. The 1301st meeting of the Security Council on 29 September 1966, at which a consensus was reached to the effect that, *inter alia*, the members of the Council welcomed the Secretary-General's statement that he was ready to consider serving until the end of the twenty-first session, was held in private. The 1311th meeting of the Security Council, on 28 October 1966, at which the recommendation to the General Assembly regarding the extension of the appointment of U Thant as Secretary-General of the United Nations until the end of the twenty-first regular session of the General Assembly was considered, and the 1329th meeting, on 2 December 1966, at which consideration was given to the recom-

mendation concerning the appointment of U Thant as Secretary-General of the United Nations for another term of office, ending on 31 December 1971, were also held in private in accordance with rule 48 of the provisional rules of procedure of the Security Council.

(ii) *Communiqués*

26. In accordance with rule 55 of the provisional rules of procedure of the Security Council, official communiqués were issued at the close of the 1301st,<sup>28</sup> 1311th<sup>29</sup> and 1329th<sup>30</sup> private meetings of the Council. These contained the Council's recommendations to the General Assembly concerning the appointment of U Thant as Secretary-General of the United Nations.

\*\* (iii) *Number of candidates*

\*\* (iv) *Private consultations among the permanent members of the Security Council*

\*\* (v) *Secret vote*

(vi) *Communication of recommendations to the General Assembly*

27. The President of the Security Council, on 28 October 1966, addressed a letter<sup>31</sup> to the President of the General Assembly informing him of the resolution of the Security Council recommending that the General Assembly extend the appointment of U Thant as Secretary-General of the United Nations until the end of the twenty-first regular session of the General Assembly.

28. The President of the Security Council, by a further letter<sup>32</sup> to the President of the General Assembly, dated 2 December 1966, communicated the Council's decision recommending to the General Assembly the appointment of U Thant as Secretary-General of the United Nations for another term of office, ending on 31 December 1971.

\*\* (vii) *Communication to the candidate*

b. *Appointment of the Secretary-General by the General Assembly*

\*\* (i) *Private meetings*

(ii) *Nomination in the General Assembly*

29. At its 1455th meeting on 1 November 1966 the President informed the General Assembly of the communication<sup>33</sup> of 28 October 1966 received from the President of the Security Council and drew attention to a draft resolution<sup>34</sup> submitted by Argentina, Bulgaria, Japan, Jordan, Mali, the Netherlands, New Zealand, Nigeria, Uganda and Uruguay providing for the extension of the appointment of U Thant as Secretary-General of the United Nations until the end of the twenty-first regular session of the General Assembly. The representative of Nigeria then spoke on behalf of

<sup>22</sup>Press Release SG/SM/567.

<sup>23</sup>See S C, 21st yr., Resolutions and Decisions (1966), p. 16.

<sup>24</sup>See G A (XXI), Annexes, a.i. 18, A/6540.

<sup>25</sup>*Ibid.*

<sup>26</sup>S C resolution 229(1966).

<sup>27</sup>G A resolution 2161(XXI).

<sup>28</sup>S C, 21st yr., 1301st mtg.

<sup>29</sup>*Ibid.*, 1311st mtg.

<sup>30</sup>*Ibid.*, 1329th mtg.

<sup>31</sup>G A (XXI), Annexes, a.i. 18, A/6490.

<sup>32</sup>*Ibid.*, A/6540.

<sup>33</sup>A/6490. See foot-note 31 above.

<sup>34</sup>A/L.491 (mimeographed).

the sponsors in support of the draft resolution, which was adopted at the meeting as resolution 2147(XXI).

30. At its 1483rd plenary meeting on 2 December 1966 the President informed the General Assembly of the Contents of a further communication<sup>35</sup> dated 2 December 1966 received from the President of the Security Council. The representative of Uruguay introduced a draft resolution<sup>36</sup> providing for the appointment of U Thant as Secretary-General of the United Nations, for another term of office, ending on 31 December 1971. This was adopted at the meeting as resolution 2161(XXI).

(iii) *Secret ballot*

31. The General Assembly, by secret ballot, adopted by 113 votes to none the draft resolution providing for the extension of the appointment of U Thant as Secretary-General until the end of the twenty-first session.<sup>37</sup>

32. By secret ballot, the General Assembly adopted, by 120 votes to none, the draft resolution providing for the appointment of U Thant as Secretary-General of the United Nations for another term of office, ending on 31 December 1971.<sup>38</sup>

**\*\***(iv) *Majority required*

(v) *Installation in office*

33. Following the adoption by the General Assembly of resolution 2147(XXI) and a statement by the President, the Secretary-General made a statement in the course of which he reaffirmed his oath of office.<sup>39</sup>

34. A similar ceremony took place at the 1483rd plenary meeting of the General Assembly when, following the adoption of resolution 2161(XXI) and a statement by the President of the General Assembly, the Secretary-General addressed the Assembly and, as on the previous occasion, reaffirmed his oath of office.<sup>40</sup>

2. TERMS OF APPOINTMENT OF THE SECRETARY-GENERAL

a. *Length of term of office*

35. In his statement following the adoption by the General Assembly of resolution 2147(XXI), the

<sup>35</sup>A/6540. See foot-note 32 above.

<sup>36</sup>A/L.503 (mimeographed).

<sup>37</sup>G A (XXI), Plen., 1455th mtg., para. 12. See G A resolution 2147(XXI).

<sup>38</sup>*Ibid.*, Plen., 1483rd mtg., para. 15. See G A resolution 2161(XXI).

<sup>39</sup>*Ibid.*, Plen., 1455th mtg., paras. 18-23.

<sup>40</sup>*Ibid.*, Plen., 1483rd mtg., paras. 23 and 24.

Secretary-General stated that it had given him particular pleasure to accept the extension because he did not deem it advisable, under normal circumstances, to change the Secretary-General while the General Assembly was in session.<sup>41</sup>

36. Following the previous practice, the General Assembly, by its resolution 2161(XXI), appointed U Thant as Secretary-General of the United Nations for a term of five years, expiring on 31 December 1971.

b. *Conditions of service*

(i) *Emoluments*

37. During the twenty-second session of the General Assembly, the President of the General Assembly addressed a letter<sup>42</sup> to the Chairman of the Fifth Committee in which he stated that the emoluments of the executive heads of the major specialized agencies as well as the Under-Secretaries-General of the United Nations Secretariat and the judges of the International Court of Justice had been raised in recent years. Given the need for an adequate level of remuneration for the Secretary-General, whose salary and allowances had remained unchanged since January 1963, and of distinguishing his status from that of the executive heads of the specialized agencies, he felt that the Fifth Committee might wish to examine the matter.

38. The matter was considered at the 1227th meeting of the Fifth Committee on 15 December 1967 during which the Chairman of the Advisory Committee on Administrative and Budgetary Questions, in an oral statement, announced that the Advisory Committee had considered the matter and suggested that the salary of the Secretary-General be increased from \$27,500 net to \$31,600 net per year effective 1 January 1968 together with the appropriate post adjustment. At the same meeting, the Fifth Committee decided without objection to recommend to the General Assembly that it endorse the suggestion of the Advisory Committee.<sup>43</sup>

39. At its 1642nd plenary meeting, the General Assembly adopted the recommendation on the emoluments of the Secretary-General without objection.<sup>44</sup>

**\*\***(ii) *Other conditions of service*

**\*\***(iii) *Abstention from governmental service after expiration of the term of office*

<sup>41</sup>G A (XXI), Plen., 1455th mtg., para. 20.

<sup>42</sup>G A (XXII), Annexes, a.i. 74, A/C.5/L.935.

<sup>43</sup>G A (XXII), Annexes, a.i. 74, A/7014, paras. 88-90.

<sup>44</sup>G A (XXII), Plen., 1642nd mtg., paras. 132 and 133.